

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BEVERLY MANN,

Plaintiff,

vs.

Case No. 07-CV-12857
HON. GEORGE CARAM STEEH

GINO J. AGNELLO, et al.,

Defendants.

_____/

ORDER DENYING MOTION TO VACATE ORDER OF DISMISSAL (#6)
AS ON RECONSIDERATION

Plaintiff Beverly Mann moves to vacate this court's November 29, 2007 Order dismissing this matter for failure to show cause why this lawsuit should not be dismissed for lack of prosecution. The court construes the motion as a motion for reconsideration.

Generally, and without restricting the court's discretion, the court will not grant a motion for reconsideration that merely presents the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case. E.D. Mich. LR 7.1(g)(3).

The court dismissed Mann's claims after finding that Mann had not shown she had accomplished proper service on any defendant as of the date of the Order, November 29, 2007. The summonses expired on November 9, 2007. The court noted that mailing copies

of service waiver forms to several of the defendants did not constitute service of process absent executed waiver forms filed with the court. Fed. R. Civ. P. 4(d)(4). Mann argues the court erred because the defendants that were mailed the forms "are almost certain to waive service." Yet, Mann has not proffered executed waiver of service forms in her instant motion to vacate. Mann has failed to demonstrate palpable error. Accordingly,

Plaintiff's motion to vacate the court's November 29, 2007 Order of dismissal is hereby DENIED.

SO ORDERED.

Dated: December 6, 2007

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
December 6, 2007, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk